
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

KEITH A. BERKSHIRE,

Plaintiff,

v.

GARY HERBERT, et al.,

Defendants.

**MEMORANDUM DECISION AND
ORDER ADOPTING [15] REPORT AND
RECOMMENDATION**

Case No. 2:17-cv-1322 DN

District Judge David Nuffer
Magistrate Judge Brooke Wells

The Report and Recommendation¹ issued by United States Magistrate Judge Brooke Wells on June 7, 2018, recommends that Defendants' Motion for Judgment on the Pleadings² be granted and that Plaintiff's Complaint³ be dismissed for lack of subject matter jurisdiction.⁴

The parties were notified of their right to file objections to the Report and Recommendation within 14 days of its service pursuant to [28 U.S.C. § 636](#) and [Fed. R. Civ. P. 72](#).⁵ No party filed a written objection to the Report and Recommendation as provided by court rules. Therefore, the sound analysis and conclusion of the Magistrate Judge are accepted and the Report and Recommendation⁶ is adopted in its entirety.

¹ Report and Recommendation, [docket no. 15](#), filed June 7, 2018.

² Defendants' Motion for Judgment on the Pleadings, [docket no. 12](#), filed April 17, 2018.

³ Complaint, [docket no. 1](#), filed December 27, 2017.

⁴ Report and Recommendation at 4.

⁵ *Id.* at 5.

⁶ Report and Recommendation, [docket no. 15](#), filed June 7, 2018.

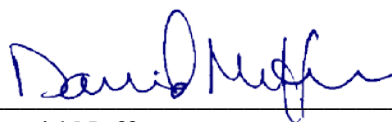
ORDER

IT IS HEREBY ORDERED that the Report and Recommendation⁷ is ADOPTED. Defendants' Motion for Judgment on the Pleadings⁸ is GRANTED and Plaintiff's Complaint⁹ is DISMISSED without prejudice for lack of subject matter jurisdiction.¹⁰

The Clerk is directed to close the case.

Signed July 26, 2018.

BY THE COURT



David Nuffer
United States District Judge

⁷ Report and Recommendation, [docket no. 15](#), filed June 7, 2018.

⁸ Defendants' Motion for Judgment on the Pleadings, [docket no. 12](#), filed April 17, 2018.

⁹ Complaint, [docket no. 1](#), filed December 27, 2017.

¹⁰ See *Brereton v. Bountiful City Corp.*, 434 F.3d 1213, 1218 (10th Cir. 2006).